CESPA-OD-R
March 10, 2006

MONTHLY PUBLIC NOTICE

March 10, 2006

US Army Corps of Engineers
Albuquerque District
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Albuquerque, NM 87109-3435
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Section 10 of the Rivers and Harbors Act of 1899 prohibits the unauthorized obstruction or alteration of any navigable water of the United States. Section 404 of the Clean Water Act (33 USC 1233) prohibits the unauthorized discharge of dredged or fill material into the waters of the United States, including wetlands.

1. Except as noted below, the plans for these projects remain as published in their Public Notices. Any special conditions of the state water quality certification have been incorporated into the general conditions of the permit.

2. The following Department of the Army applications that were *issued* by the Albuquerque District during the period of July 1, 2005 through March 10, 2006.

Public Notice No.	*Public Notice Date*	*Applicant*	*Description*	*Date Issued*
200200701	09 May 2005	The Landhuis Company	**A permit to place dredged and fill material as channel realignment, and construction of two bridges and utility crossings at the Lorson Ranch development in Jimmy Camp Creek near Fountain, El Paso County, Colorado**	17 OCT 2005 ISSUED
200200757	11 Feb 2005	City of Bloomfield	**A permit to place dredged and fill material for construction of the City of Bloomfield's (City) "Second Water Source Project" A 3.42 acre municipal raw water reservoir will be constructed adjacent to the San Juan River, approximately 1.5 miles east of Bloomfield, San Juan County, New Mexico**	18 JUL 2005 ISSUED
200300644	27 May 2005	The Cottonwoods at Cattails, LLC	A permit to place dredged and fill material for the 133.6 acre housing development project named the Cottonwoods at Cattails located adjacent to the Rio Grande in Alamosa, Alamosa County, Colorado	21 AUG 2005 ISSUED
200400406	05 Oct 2004	Pueblo of Isleta	**A permit to place dredged and fill material into the Rio Grande, in conjunction with the removal of several islands, within the Pueblo of Isleta, Valencia County, New Mexico**	25 OCT 2005 ISSUED
200400720	27 Sep 2005	Vulcan Materials Company	A permit to place dredged and fill material during sand and gravel mining in several unnamed tributaries of the Arroyo Largo on the Santo Domingo Pueblo, Sandoval County, New Mexico	29 DEC 2005 ISSUED

200400725	29 Jul 2005	Wal-Mart Stores, Inc.	A permit to place dredged and fill material as Wal-Mart Supercenter adjacent to and crossing Fountain Creek in Woodland Park, Teller County, Colorado	04 JAN 2006 ISSUED
200500080	01 Jul 2005	Rio Puerco Management Committee	A permit to place dredged and fill material to channelize San Pablo Creek for better alignment with existing culverts and to improve stream flow to the confluence of San Pablo Creek and the Rio Puerco, near Cuba, Sandoval County, New Mexico	08 AUG 2005 ISSUED
200500093	13 May 2005	Bureau of Reclamation – Albuquerque Area Office	**A permit to place dredged and fill material to modify a point bar in the Rio Grande in Albuquerque, Bernalillo County, New Mexico**	03 AUG 2005 ISSUED
200500209	21 Nov 2005	Bureau of Reclamation	A permit to place dredged and fill material as bendway weirs, woody debris piles, rootwad structures, for the realignment of the main channel and construction of a secondary channel at the Bernalillo Priority Site in the Rio Grande near Bernalillo, Sandoval County, New Mexico	26 JAN 2006 ISSUED
200500328	13 Dec 2005	Albuquerque Metropolitan Arroyo Flood Control Authority	**A permit to place dredged and fill material as channelization of the ephemeral North Camino Arroyo via concrete lining in Albuquerque, Bernalillo County, New Mexico**	27 JAN 2006 ISSUED
200500411	18 Oct 2005	City of Colorado Springs	A 10-year permit to place dredged and fill material as floodway channel maintenance in Templeton Gap Floodway in Colorado Springs, El Paso County, Colorado	19 DEC 2005 ISSUED
200500413	04 Aug 2005	Woodmen Heights Metropolitan District	A permit to place dredge and fill material as overlot grading and detention ponds for the Forest Meadows development in Sand Creek and its tributaries near Colorado Springs, El Paso County, Colorado	20 JAN 2006 ISSUED
200500430	25 Jul 2005	U.S. Department of the Interior	A permit to sidecast dredged material adjacent to a proposed pilot channel to be excavated within a sediment plug in Rio Grande near San Marcial, Socorro County, New Mexico	31 AUG 2005 ISSUED
200500470	18 Aug 2005	New Mexico Interstate Stream Commission	A permit to place dredged and fill material as Middle Rio Grande Riverine Habitat Restoration Project 26 islands and bars within three subreaches of the Rio Grande in Albuquerque, Bernalillo County, New Mexico.	23 DEC 2005 ISSUED
200500481	28 Oct 2005	Colorado Springs Utilities	A permit to place dredged and fill material as a grouted bolder drop structure to protect an existing sewerline crossing in Fountain Creek in Colorado Springs, El Paso County, Colorado	07 FEB 2006 ISSUED
200500521	21 Sep 2005	Westland Development Company, Inc.	A permit to place dredged and fill material in two unnamed tributaries of the Ladera Dam/Pond system during construction of the Stormcloud Subdivision in Albuquerque, Bernalillo County, New Mexico	18 NOV 2005 ISSUED

200500546	02 Sep 2005	Town of Buena Vista	A permit to place dredged and fill material as whitewater boating structures and aquatic habitat enhancement at South Main River Park on 1,500 linear feet in the Arkansas River in Buena Vista, Chaffee County, Colorado	24 OCT 2005 ISSUED
200500597	02 Nov 2005	City of Albuquerque	A permit to place 1.1 acres of dredged and fill material in the form of a Reinforced Portland Cement Concrete (RPCC) box culvert as channelization of North Domingo Baca Arroyo, a tributary of the Rio Grande in Albuquerque, Bernalillo County, New Mexico	19 DEC 2005 ISSUED

a. Public Notice No. 200200701 – Special conditions are as follows:

1. Final bridge designs for Fontaine Boulevard and for the south arterial A will be submitted to the Corps of Engineers for review and approval 60 days prior to start of each bridge construction. Project construction of each structure may begin upon the Corps of Engineers' issuance of a start-of-work authorization.
2. A final design and location for the temporary southern road crossing will be submitted to the Corps of Engineers for review and approval 60 days prior to the crossing construction. The crossing will be designed to pass the expected high flows. Project construction may begin upon the Corps of Engineers' issuance of a start-of-work authorization.
3. A final design for the Fountain Mutual Irrigation Company's ditch siphon crossing of Jimmy Camp Creek will be submitted to the Corps of Engineers for review and approval 60 days prior to start of the siphon crossing. Project construction may begin upon the Corps of Engineers' issuance of a start-of-work authorization.
4. A final design for the proposed sanitary sewer line crossing will be submitted to the Corps of Engineers for review and approval 60 days prior to start of the sewer line crossing. Project construction may begin upon the Corps of Engineers' issuance of a start-of-work authorization.
5. Erosion control measures will be implemented to prevent upland erosion into Jimmy Camp Creek. All upland areas disturbed by the permittee or their (sub) contractors located within 200 feet of the stream will be treated with erosion control measures including placing topsoil, seeding, and mulching within 21 calendar days after final grading or final earth disturbance or in accordance with the erosion control plan required by El Paso County. An erosion control plan or a summary of the County's approved plan will be provided to the Corps of Engineers within 60 days of permit issuance.
6. The buried riprap channel bank protection will be seeded with a mixture of native grasses and forbs and will be mulched. A plan giving the plant species and seeding rates will be submitted to the Corps of Engineers 60 days prior to start of project construction, for review and approval. Project construction may begin upon the Corps of Engineers' issuance of a start-of-work authorization.
7. Temporary disturbances to the East Fork channel and its wetlands are not authorized. Temporary construction of silt fencing will be used to limit construction impacts. Two copies of a drawing showing the location of access points, access roads, stockpiles, staging areas, temporary construction fencing, and silt fencing will be provided to the Corps of Engineers 60 days prior to start of project construction, for review and approval. Project construction may begin upon the Corps of Engineers' issuance of a start-of-work authorization.
8. Noxious weeds will be controlled in all project-disturbed areas within 200 feet of the stream during the 5-year maintenance period. A plan for such control will be provided to the Corps of Engineers within 60 days of permit issuance, for review and approval.
9. A detailed mitigation plan will be provided to the Corps of Engineers within 60 days of permit issuance of the permit, for review and approval prior to start of project construction. Project construction may begin upon the Corps of Engineers' issuance of a start-of-work authorization. The plan will provide for the mitigation of the loss of 400 riparian trees with replacement of 400 Populus deltoids trees. At least 50 percent of the trees will be pole plantings harvested from a

local source. A new Salix exigua shrub zone within the low-flow channel will be created. The shrubs will be whip/stake plantings harvested from a local source. The mitigation work will begin in the spring following winter construction (or in the fall following summer construction) and be completed within 6 months of project construction. The plan will include, but is not limited to, the following items:

- A typical channel section showing the areas to be planted with nursery stock and with poles,
- A statement on the origin of nursery cottonwood tree stock (trees must be from Colorado),
- Planting densities,
- Methods and times of year for planting. Willow stakes must be planted angling downstream and with no more than 6 inches of the stake exposed above the ground, and
- A plan for short and long term management and maintenance of the mitigation sites, including supplemental tree watering if needed, replacement of failed plantings before the end of the 5-year monitoring period, and other contingency needs.

10. The mitigation efforts must be maintained for at least 5 years including 5 growing seasons or until the Corps of Engineers has determined that the mitigation efforts have been successful. Cottonwood tree plantings will be deeded successful when 80% of the planted trees are alive at the end of the 5-year period. Willow stake plantings will be deemed successful when 50% of the planted shrubs are alive at the end of the 5-year period.
11. An annual monitoring report of mitigation activities is required and will be sent to the Corps of Engineers by October 31 of each year. The monitoring report will include as a minimum:
    - A drawing or sketch showing photographic monitoring points,
    - Before and after photographs from fixed photographic location(s),
    - A brief discussion of the overall success, any bare of problem areas, and a plan to remedy any problem areas.
12. A letter of intent from the local governing authority will be provided as financial assurances for construction, and for contingency and monitoring of the mitigation for the 5-year monitoring period. The assurances of the mitigation effort will be provided sufficient to hire an independent contractor to complete the proposed mitigation should the permittee default. The financial assurance for the construction of the mitigation project will be in an amount equal to 115 percent of the estimated cost of construction. The financial assurance for contingency and monitoring of the mitigation for the 5-year monitoring period will be in an amount equal to 25% of the construction costs and will be to assure the success of the mitigation. The letter of intent will be submitted to the Corps of Engineers, for approval, within 90 days of permit issuance.
13. Any changes to the project must be approved by the Corps of Engineers through a permit modification prior to the changes being implemented.

b. Public Notice No. 200200757 – Special conditions are as follows:

1. A minimum of 2 acres of wetlands shall be restored at the mitigation site located approximately 5 miles upstream from the proposed reservoir site. An annual monitoring report shall be prepared and submitted to the Corps of Engineers, Durango Regulatory Office, and the Bureau of Land Management's Farmington Field Office by December 31st, starting at the end of the first full year following project construction. Reports shall continue for a period of 5 years. The report shall document the three parameters outlined in the Corps' 1987 delineation manual. One permanent vegetative transect shall be established and readings of vegetation species composition, vigor, and density shall be documented annually. Maps shall be provided showing the areas that are reverting to wetlands. Noxious weed presence shall be documented. If, after the 5-year period, wetlands restoration is not occurring, additional mitigation may be required.
2. A diversion and water control structure shall be constructed on the water ditch at the mitigation site concurrently with the reservoir construction. This structure shall be designed to regulate water flow into the mitigation area. Water flow into the mitigation site should begin as soon as possible, after consultation with the Corps of Engineers, Bureau of Land Management, and

State of New Mexico, Office of the State Engineer. A copy of the approved New Mexico "Change in Place and Purpose of Use of Surface Water" for the 18.72 acre feet of water for the mitigation site shall be provided to the Corps of Engineers and Bureau of Land Management as soon as it is provided to the City of Bloomfield.

3. The diversion structure along the San Juan River shall be constructed with screens and/or other exclusion measures to prevent fish entrainment.
4. Prevent disturbance to bald eagles by suspending activities if a bald eagle is perched within one-half mile of the project site unless they land in the area during construction. A qualified biologist should survey the area for wintering bald eagles prior to construction activity between November 1 and March 1.
5. Where possible, minimize trapping of wildlife during trenching operation by trenching and burying water pipeline concurrently. Leave the least amount of trench open overnight and provide escape ramps for trapped wildlife.
6. Remove no woody riparian vegetation, except where permanent erosion-protection structures where there is adequate natural bank protection, such as vegetation, tree root masses, large cobbles or boulders, Cottonwood saplings with trunk protection guards shall be planted around the perimeter of the new reservoir to replace removed large trees.
7. The Corps of Engineers, Durango Regulatory Office, shall be notified when project construction begins.
8. Best management practices shall be followed to prevent introduction of sediments into the San Juan River, including silt screens, etc.

c. Public Notice No. 200300644 – Special conditions are as follows:

1. Erosion control measures will be implemented to prevent upland erosion into the existing wetlands near the project site. All areas disturbed by the permittee or their (sub) contractors will be treated with erosion control measures including placing topsoil, seeding, and mulching.
2. Erosion control outfall structures will be constructed if development site runoff is directed into existing or mitigation wetlands. A design of the structure will be provided to the Corps of Engineers for review and approval 90 days prior to start of development grading.
3. You will create 12.38 acres of wetlands according to the mitigation plan submitted, dated September 2004 and subsequent modifications.
4. The mitigation effort must be maintained for at least 5-years or until the Corps of Engineers has determined that the mitigation effort has been successful. The created wetlands will be deemed successful when there is 70% vegetative cover of the planted species at the end of the 3-year period. The riparian shrub and tree plantings will be deemed successful when 75% of the planted shrubs and trees are alive at the end of the 3-year period.
5. An annual monitoring report is required and will be sent to the Corps of Engineers by December 31st of each year. The monitoring report will include as a minimum:
    a. A drawing or sketch showing photographic monitoring points,
    b. Before and after photographs from fixed photographic location(s),
    c. A brief discussion of the overall success (including the presence of hydrology), any bare or problem areas, and a plan to remedy any problem areas.
6. The mitigation area will be preserved by placing a conservation easement, deed restriction, or other protective measure on the area. This will be completed within 90 days of completion of mitigation construction. A copy of the preservation instrument will be sent to the Corps of Engineers.
7. Financial assurances for construction, contingency, and monitoring of the mitigation efforts will be provided sufficient to hire an independent contractor to complete and maintain the proposed mitigation should the permittee default. Financial assurances may be in the form of performance bonds, escrow accounts, letters of credit, or other instruments approved by the Corps of Engineers. The financial assurance for construction of the mitigation project will be posted in an amount equal to 115% of the estimated cost of construction. In addition to the 115%, financial assurance to assure the success of the mitigation project will also be posted in an amount equal to 30% of the estimated cost of construction. The total financial assurances will be 145% of the estimated cost of construction. A proposal for financial assurances will be submitted to the Corps of Engineers, for approval, 90 days prior to start of overlot grading. Financial assurance documents will be forwarded to the Corps of Engineers within 30 days of

the Corps of Engineers' approval of the financial assurance proposal. The financial assurance will be reviewed annually and adjusted as needed.

8. Any changes to the location or type of materials to be used in the project must be approved by the Corps of Engineers through a permit modification prior to the changes being implemented.

d. Public Notice No. 2004 00406 – Special conditions are as follows:

1. An open channel with a velocity of less than 3 feet per second will be maintained around the project at all times.
2. Construction activities will be avoided during the migratory bird-nesting season of March through August. Any areas proposed for construction during the nesting season will be surveyed and, if occupied nests are found, the occupied areas should be avoided until nesting is completed.
3. Two acres of native vegetation will be established for every acre impacted. Planting of willow and cottonwood poles should be dense and in a location where adequate water is available to ensure that mitigation is successful. Mitigation should cover the direct removal of vegetation during construction, as well as induced mortality that may occur in future years. A mitigation plan incorporating the above measures will be submitted for review and approval within 90 days of permit issuance. This plan, including the submittal of an annual monitoring report, will be prepared in accordance with the Albuquerque District's Mitigation Monitoring Guidelines (found at www.spa.usace.army.mil/reg/).
4. Temporary staging areas and other areas disturbed during construction (with the exception of the islands) will be reclaimed and revegetated with native vegetation.
5. If a bald eagle is observed within 0.25 miles of the active project site in the morning before construction starts, or following breaks in construction activity, the contractor will suspend all activity until the bird departs the area of its own volition. However, if an eagle arrives during construction activities or if an eagle is observed at a distance greater than 0.25 miles from the construction area, construction need not be interrupted.
6. Prior to island removal work, the permittee will coordinate with the USFWS to seine isolated pools for Rio Grande silvery minnows (RGSMs) when flows are diverted. The sampling protocol developed by the New Mexico Ecological Services Fishery Office (NMESFO) will be used. At least two week's notice must be provided to allow coordination of salvage efforts. This procedure will minimize take by rescuing RGSMs to the maximum extent practicable.
7. The river channel conditions will be monitored as the project progresses over the course of several years. The scope of the project may change as a result of these monitoring efforts, due to possible changes in river conditions or the availability of new information.
8. In-channel construction will only occur during in low-flow to no-flow periods so as to avoid spawning and migratory bird nesting seasons.
9. Existing maintenance yards will be used to store and service construction equipment. Construction equipment shall be cleaned prior to construction and inspected daily to ensure that no leaks or discharges of lubricants, hydraulic fluids or fuels occur in the aquatic or riparian ecosystem. Fuels, lubricants, hydraulic fluids and other petrochemicals shall be stored and dispensed outside the floodplain. Any petrochemical spills, including contaminated soil, shall be contained and subsequently disposed of at an approved upland site.
10. Silt curtains, cofferdams, dikes, straw bales or other suitable erosion control measures shall be used, if feasible, to minimize sedimentation in the project area.
11. Protocol surveys for Southwestern willow flycatchers (SWFs) will be conducted every year prior to each work period in May, June, and July. If SWFs are present, then the Corps will contact the USFWS for further consultation. If no SWFs care present, then the work can proceed.
12. The island removal work is planned to be conducted when no flow is present in the Rio Grande or when flows are less than 100 cubic feet per second (cfs). In addition, vegetation removal work may occur during the winter months. This work will not involve any work in the flowing river and would include the possible use of a boat to access the islands, as well as chainsaws and other hand-carried equipment. This vegetation work would not involve the use of heavy equipment.
13. No more than 150 RGSMs greater than 30 mm (1.2 inches) standard length (SL) per year may be taken during island removal actions as described in the Biological Opinion.
14. The pilot channel shall be excavated starting in the middle of the dry section, working

downstream then upstream, leaving the upstream channel unexcavated approximately 5 meters short of flowing water to minimize the degree of contact between equipment and the wetted area. Excavation at the interface between flowing water and the channel shall be avoided by leaving a low berm at the upstream end. This berm should be lowered gradually by pulling sediment to the side or into the channel until flows breach the berm.

15. Adaptive management will be used to modify island removal activities as appropriate. Habitat use by silvery minnows and the effects of island removal will be monitored by the permittee within the project area. The permittee will coordinate with the USFWS at least annually to determine whether methods to remove islands may be modified to meet the intent of the project, but minimize effects of habitat loss.
16. In cooperation with the USFWS, the permittee (after coordination with the Corps) will work to restore bosque habitat near the Alejandro Drain area to improve floodplain connectivity and provide nursery habitat.
17. In cooperation with the USFWS, the permittee (after coordination with the Corps) will investigate and implement opportunities to improve in-channel habitat near drain outfalls within the project area following recommendations of the Collaborative Programs' workgroup studying the "in-channel wetted refugia" concept.
18. In cooperation with the USFWS, the permittee (after coordination with the Corps) will construct an off-channel silvery minnow grow-out facility.

e. Public Notice No. 2004 00720 – Special conditions are as follows:

1. Perform site reclamation in accordance with the BLM and BIA approved mining reclamation plan. Revegetation includes a native species seed mix approved the BIA Southern Pueblos Agency. Seed mix species include sand dropseed, Indian ricegrass, galleta, black grams, blue grama, and fourwing saltbush.
2. Insure that Revegetation success has been achieved as described in the reclamation plan prior to re-establishing livestock grazing.
3. Reconstruct arroyo channels during land reclamation and mitigation. Approximately 1.05 acres of arroyos will be recreated. Re-establish approximate original drainage patterns to the Arroyo Largo.
4. Design reconstructed arroyos and other project features to maintain up- and downstream wildlife movement through the project area.
5. To minimize the likelihood of adverse impacts to all birds protected under the MBTA, conduct construction activities (i.e., new land disturbance) outside the general migratory bird-nesting season of March through August. Alternatively survey for migratory birds in areas proposed for construction (new land disturbance) during the nesting season, and if necessary, avoid any nests until nesting is complete.
6. Store and dispense fuels, lubricants, hydraulic fluids and other petrochemicals outside the floodplain. Inspect construction equipment daily to ensure that no leaks or discharges of lubricants, hydraulic fluids or fuels occur in the aquatic or riparian ecosystem. Contain and remove any petrochemical spills, including contaminated soil, and dispose of these materials at an approved upland site.
7. Employ silt curtains, cofferdams, dikes, straw bales or other suitable erosion control measures to minimize sedimentation in the project area.
8. During Phases 1 through 6, avoid all known cultural resources sites within the 267-acre project area. In the event previously unknown cultural resources are found, stop work in the site vicinity, and contact the BIA archeologist, the Corps of Engineers' archeologist, and the New Mexico State Historic Preservation Officer for advice on the appropriate action to be taken.

f. Public Notice No. 2004 00725 – Special conditions are as follows:

The bank protection riprap will be covered with topsoil and revegetated with native grasses and forbs. Two copies of a drawing showing this detail will be provided to the Corps of Engineers prior to start of construction.

g. Public Notice No. 2005 00080 – Special conditions are as follows:

1. The Permittee shall apply reseeding mixtures to disturbed areas. The mixtures must include a variety of native grasses, forbs, and shrubs.
2. The Permittee shall monitor the site for successful Revegetation. Successful Revegetation will be reflected by a 75% success rate of living vegetation after 3 years. The Permittee shall monitor the site biannually for successful growth and reseed the site as necessary to ensure success.

h. Public Notice No. 2005 00093 – Special conditions are as follows:

1. Construction activities in the Rio Grande and bosque should be avoided during the migratory bird -nesting season of March through August. Areas proposed for construction during the nesting season shall be surveyed, and when occupied, avoided until nesting is complete.
2. If a bald eagle is present within 0.25 mile upstream or downstream of the work site before project activity starts, or following breaks in project activity, the permittee must suspend all activity until the bird leaves of its own volition, or a USBR biologist, in consultation with the USFWS, determines that the potential for harassment is minimal.
3. The July 19, 2005, memorandum from USFWS or USBR is attached hereto (Attachment A) and incorporated by reference as a condition to this permit.
4. All work below the ordinary high water mark must be conducted during low flow periods. Access to the point bar shall be in dry conditions.
5. The elevations and contours of the floodplain shall be restored to pre-project conditions upon completion of construction. All excess fill material not used directly in modification of the point bar shall be removed off-site to an approved upland location.
6. To minimize impacts to aquatic resources during construction, the following best management practices must be implemented:
    - Silt curtains, cofferdams, dikes, straw bales, or other suitable erosion control measures shall be installed to minimize sediment-laden runoff from entering water of the U.S.
    - Equipment and construction materials must be stored outside of riparian or channel areas and, to the extent practicable, within previously disturbed areas.
    - Construction equipment must be cleaned and serviced well away from any aquatic or riparian areas. Construction equipment shall be cleaned prior to construction to ensure that no leaks or discharges of lubricants, hydraulic fluids or fuels occur in aquatic or riparian ecosystems. Construction equipment shall be inspected daily and maintained free of leaks. Fuels, lubricants, hydraulic fluids and other petrochemicals must be stored and dispensed outside the floodplain. Any petrochemical spills, including contaminated soil, shall be contained and removed to an approved upland site.
7. The project activities must not raise the Base Flood Elevation of the floodway, either during or after the project completed.
8. Disturbance to existing native vegetation in the Rio Grande floodplain shall be avoided and minimized to the maximum extent practicable. In areas that will be disturbed by heavy equipment, including staging and access areas, vegetation shall be quantified prior to, and upon completion of, construction. Disturbed areas shall be reseeded and damaged plants replaced with an equal number of plants within the same or following growing season after the impact occurs.
9. Prior to construction, the permittee will survey the current distribution of willows and other native vegetation in the project area. The permittee will provide a map to the Corps showing the existing distribution of native vegetation; areas where natural regrowth of native vegetation is expected; and areas where plantings will occur during the growing season following construction completion. If native woody vegetation is not successfully reestablished in the identified areas, the permittee shall replant native woody species during Spring 2007. As described in the Corps' Mitigation and Monitoring Guidelines, an annual monitoring report will be submitted to the Corps for a minimum of five years after completion of the mitigation, or upon successful revegetation, whichever occurs first. At any stage during the monitoring

period, the Corps may require modifications to or Revegetation of the mitigation area.

10. The permittee will develop and implement a Rio Grande silvery minnow monitoring plan and submit annual monitoring reports to the Corps regarding how well the project features are meeting the stated purpose of providing habitat for the Rio Grande silvery minnow. The annual Reports will identify any necessary adaptive management measures, and provide suggestion for Rio Grande silvery minnow habitat projects that may be proposed in the future. The monitoring reports shall be submitted to the Corps annually for a period of five years.
11. This permit authorizes minor modifications within the permitted project area that are necessary to implement identified adaptive management measures, provided the Corps authorizes the work in writing prior to the start of construction activities.

i. Public Notice No. 2005 00209 – Special conditions are as follows:

1. If a bald eagle is observed within 0.25-mile up- or downstream of the site in the morning prior to construction activity start or following breaks in construction activity, the construction crew will be required to suspend all activity until the bird leaves of its own volition or the Bureau of Reclamation biologist, in consultation with the U.S. Fish and Wildlife Service, determines that the potential for harassment is minimal. If a bald eagle arrives during construction or is observed beyond the 0.25-mile limit, construction need not be interrupted.
2. The permittee shall limit clearing and grubbing activities during the April through August migratory bird nesting season. If construction should prove necessary during the nesting season, the areas shall be surveyed, and when occupied, avoided until nesting is complete.
3. The permittee shall obtain a Biological Opinion for the project from the U.S. Fish and Wildlife Service and comply with its terms and conditions. The permittee shall submit a signed copy of the Biological Opinion to the Corps of Engineers upon receipt from the U.S. Fish and Wildlife Service.
4. Temporary staging areas and other disturbed areas will be revegetated with native vegetation.
5. Best Management Practices (BMPs) including silt curtains or similar erosion control devices will be used to control turbidity and minimize sedimentation in the project area.
6. Existing maintenance yards shall be used, to the extent practicable, to store and service construction equipment. Construction equipment will be cleaned prior to use and inspected daily. Petrochemical fuels and lubricants will be stored outside the floodplain and within an impervious secondary containment system. Any spills will be contained and disposed of at an approved upland disposal site. No equipment refueling will be performed within 100 feet of a water of the United States. A spill kit will be kept onsite.
7. Any poured concrete will be contained in forms and/or placed behind/in cofferdams to prevent discharge into the watercourse. Appropriate measures will be used to prevent wastewater from concrete batching, vehicle wash-down, or aggregate processing from entering the waterway
8. During construction, an open channel for fish passage shall be maintained at normal flow levels.
9. The permittee shall employ the refugial pool system during construction as described in their application and environmental assessment. The permittee shall continue to coordinate site visits with U.S. Fish and Wildlife Service to evaluate the refugial pool management and to determine if any Rio Grande silvery minnows present should be removed from the project area.
10. A mitigation and monitoring plan formatted according to the Albuquerque District, Corps of Engineers' Guidelines will be submitted by February 28, 2006 for approval. A report on the success of the revegetation activities shall be included as part of the annual mitigation monitoring report to the Corps of Engineers, the U.S. Fish and Wildlife Service and other members of the Middle Rio Grande Endangered Species Act Collaborative Program Habitat Restoration Committee.
11. Any construction in the river channel below the ordinary high water mark will be performed during low flow conditions.

j. Public Notice No. 2005 00328 – Special conditions are as follows:

1. Contain any poured concrete in forms and/or behind cofferdams to prevent discharge into waterways. Contain and treat or remove for off-site disposal and wastewater from concrete batching, vehicle wash-down, and aggregate processing.

2. Use existing maintenance yards to store and service construction equipment. Clean construction equipment prior to construction to ensure that no leaks or discharges of lubricants, hydraulic fluids or fuels occur in the aquatic or riparian ecosystem. Inspect construction equipment daily. Store and dispense fuels, lubricants, hydraulic fluids and other petrochemicals outside the floodplain. Contain and remove any petrochemical spills, including contaminated soil, and dispose of these materials at an approved upland site.
3. Dispose of debris currently within project boundaries at an approved disposal site.

k. Public Notice No. 2005 00411 – Special conditions are as follows:

None.

l. Public Notice No. 2005 00413 – Special conditions are as follows:

1. A drawing showing the final design of detention basins will be provided to the Corps of Engineers 60 days prior to start of detention basin construction. Basin design will include sediment retention bays with access for cleanout, energy dissipating inlet structures, and energy dissipating outlet structures.
2. Erosion control measures will be implemented to prevent upland erosion into the mitigation wetlands or into existing wetlands near the project site. All areas disturbed by the permittee or their (sub) contractors will be treated with erosion control measures including placing topsoil, seeding, and mulching within 21 calendar days after final grading or final earth disturbance or in accordance with the erosion control plan required by the City of Colorado Springs. An erosion control plan or proof of the City's approval of an erosion control plan will be provided to the Corps of Engineers within 60 days of permit issuance.
3. Temporary disturbances to existing wetlands and riparian areas will be held to the minimum practicable. Temporary construction or silt fencing will be used to limit construction impacts. Two copies of a drawing showing the location of access points, access roads, stockpiles, staging areas, temporary construction fencing, and silt fencing will be provided to the Corps of Engineers 60 days prior to start of project construction, for review and approval. Project construction may begin upon the Corps of Engineers' approval and issuance of a start-of-work authorization.
4. The pattern of water (baseflows or groundwater) leaving the development and supporting receiving streams and wetlands will be maintained. Hydrology to preserved wetlands will be maintained. Hydrology to preserved wetlands will be maintained, if necessary, by routing stormdrains or underdrains to the wetlands. The amount of water entering the preserved old stockpond will be limited so that the pond is not destroyed by too little or too much water inflow.
5. A detailed mitigation plan will be provided to the Corps of Engineers within 90 days of issuance of the permit for approval prior to start of construction. The plan will provide for the preservation of 18.08 acres of wetland and creation of 10.01 acres of herbaceous wetlands. Up to 2 acres of wetland loss can be mitigated by substituting out-of-kind riparian tree and shrub creation at a 1:1 ratio. Specifically:
    - Preserve 2.37 acres of herbaceous wetlands and intermittent Sand Creek channel above the future Marksheffel Road, and create additional and adjacent herbaceous wetlands and riparian trees and shrubs.
    - Preserve 2.37 acres of herbaceous and shrub wetlands adjacent to Sand Creek between the future Marksheffel Road and Detention Pond No. 1, and create additional and adjacent herbaceous wetlands and riparian trees and shrubs.
    - Preserve 0.47 acre of open water and adjacent herbaceous wetlands in the tributary old stock pond.
    - Preserve 4.42 acres of herbaceous wetlands and intermittent Sand Creek channel within Detention Pond No. 2.
    - Preserve 1.36 acres of herbaceous wetland swale east of Detention Pond No. 1.
    - Preserve 1.78 acre of herbaceous wetland swale northeast of Detention Pond No. 2.
    - Preserve 1.27 acres of herbaceous wetlands within Detention Pond No. 2,

and expand the wetlands.

- Preserve 3.45 and 0.60 acres of herbaceous and shrub wetlands along Sand Creek south of Woodmen Road.

The detailed mitigation plan will include, but is not limited to, the following items:

a. A drawing showing the location of temporary construction fencing to protect existing wetlands,
b. A drawing showing the areas to be excavated and proposed final contours,
c. Creation of an unmowed 50-foot vegetation buffer around the preserved old stockpond,
d. Creation of an unmowed 15-foot vegetation buffer around the mitigation areas not located in detention ponds,
e. A drawing showing the areas to be planted and a table listing the acreages of plantings,
f. A list of the species to be planted or seeded (all species will be native),
g. Planting or seeding densities,
h. Methods and times of year for planting,
i. A plan for control of noxious weeds or exotic vegetation within 200 feet of a stream or wetland and in mitigation sites during the 5-year maintenance period,
j. A plan for short and long term management and maintenance of the mitigation site, including supplemental tree and shrub watering if needed, replacement of failed plantings before the end of the 5-year monitoring period, and other contingency needs.

6. Mitigation construction and planting will be completed within 6 months of detention pond construction completion.
7. The mitigation effort must be maintained for at least 5 years including 5 growing seasons or until the Corps of Engineers has determined that the mitigation effort has been successful. The created wetlands will be deemed successful when there is 70% vegetative cover of the planted herbaceous species or similar desirable species and 70% of the planted trees and shrubs are alive at the end of the 5-year period.
8. An annual monitoring report is required and will be sent to the Corps of Engineers by December 31st of each year. The monitoring report will include at a minimum:
    a. A drawing or sketch showing photographic monitoring points,
    b. Before and after photographs from fixed photographic location(s),
    c. A brief discussion of the overall success (including the presence of hydrology), any bare or problem areas, and a plan to remedy the problem areas.
9. The mitigation areas and mitigation buffers will be preserved. The design plan drawings will include a sheet showing the mitigation area boundaries to be preserved, location of signs to be placed marking the boundaries and no-mow areas, and a detail describing the signage. A copy of the drawing will be provided to the Corps of Engineers within 90 days of completion of mitigation construction.
10. Financial assurances for construction, contingency, and monitoring of the mitigation efforts will be provided sufficient to hire an independent contractor to complete and maintain the proposed mitigation should the permittee default. Financial assurances may be in the form of performance bonds, escrow accounts, letters of credit, or other instruments approved by the Corps of Engineers. The financial assurance for construction of the mitigation project will be posted in an amount equal to 115% of the estimated cost of construction. In addition to the 115% financial assurance to assure the success of the mitigation project will also be posted in an amount equal to 30% of the estimated cost of construction. The total financial assurances will be 145% of the estimated cost of construction. A proposal for financial assurances will be submitted to the Corps of Engineers, for approval, 90 days prior to start of project construction. Financial assurance documents will be forwarded to the Corps of Engineers within 30 days of the Corps of Engineers' approval of the financial assurance proposal. Project construction may begin upon the Corps of Engineers' receipt of the financial assurance and issuance of a start-of-work authorization. The financial assurance will be reviewed annually and adjusted as needed.
11. Any changes to the location or type of materials to be used in the project must be approved by the Corps of Engineers through a permit modification prior to the changes being implemented.

m. Public Notice No. 2005 00430 – Special conditions are as follows:

1. Complete Section 7 consultation prior to project construction and comply with all terms and conditions contained in the Biological Opinion.
2. Reclaim and revegetate temporary staging areas and other areas disturbed during construction with native vegetation.
3. Construction activities in the Rio Grande or bosque should be avoided during the migratory bird-nesting season of March through August. Areas proposed for construction during the nesting season should be surveyed, and when occupied, avoided until nesting is complete.
4. If a bald eagle is observed within 0.25 miles of the active project site in the morning before construction starts, or followings breaks in construction activity, the contractor should suspend all activities until the bird departs the area on its own volition. However, if an eagle arrives during construction activities or if an eagle is observed at a distance greater than 0.25 miles from the construction area, construction need not be interrupted.
5. Employ silt curtains, cofferdams, dikes, straw bales or other suitable erosion control measures to minimize sedimentation in the project area.
6. Contain any poured concrete in forms and/or behind cofferdams to prevent discharge into waterways. Contain and treat or remove for off-site disposal any wastewater from concrete batching, vehicle wash-down, and aggregate processing.
7. Use existing maintenance yards to store and service construction equipment. Clean construction equipment prior to construction to ensure that no leaks or discharges of lubricants, hydraulic fluids or fuels occur in the aquatic or riparian ecosystem. Store and dispense fuels, lubricants, hydraulic fluids and other petrochemicals outside the floodplain. Inspect construction equipment daily to ensure that no leaks or discharges of lubricants, hydraulic fluids or fuels occur in the aquatic or riparian ecosystem. Contain and remove any petrochemical spills, including contaminated soil, and dispose of these materials at an approved upland site.

n. Public Notice No. 2005 00470 – Special conditions are as follows:

1. All equipment shall be steam cleaned prior to arrival on site. Any leaks detected will be fixed prior to arrival onsite. Spill pans and containment diapers will be used on each machine. All heavy equipment used within the floodplain will be inspected daily.
2. The contractor will not store fuel, oil, hydraulic fluid or similar substances within the normal floodplain and will prepare a secondary containment system to prevent spill from primary storage containers. Spill kits will be placed on each vehicle. Should a spill occur, the New Mexico Environment Department, the Corps of Engineers and the U.S. Fish and Wildlife Service will be notified within 24 hours. All contaminated soils and debris will be removed from the spill site and disposed of at an approved upland facility.
3. Clean, uncontaminated earth or alluvium suitable for revegetation with indigenous plant species will be used for restoration activities.
4. Temporary staging areas and other areas disturbed during construction will be revegetated with native vegetation.
5. To the extent practicable, existing maintenance yards to store and service construction equipment will be utilized.
6. Work will be performed during low-flow conditions. The shortest crossing path will be used to cross the North Diversion Channel and the South Diversion wetted channel.
7. Silt fencing and other erosion controls will be used to minimize increases in turbidity in the stream during and after construction.
8. Water quality will be monitored according to the requirements of the USFWS Biological Opinion, the New Mexico Environment Department and the Pueblo of Sandia water quality certifications. Silt fencing and other erosion controls will not be removed until water quality has returned to within 10 percent of the values measured during the preconstruction monitoring.
9. Temporary matting will be used in soft terrain for equipment access to minimize potential erosion and will be removed when no longer necessary.
10. No construction and clearing of vegetation will be performed during the April 15 through August 15 Southwestern willow flycatcher nesting season in areas where nesting areas may exist. If

existing vegetation must be removed during this period, a bird survey will be performed to ensure that no nesting Southwestern willow flycatcher birds are present. Construction activity will cease if a flycatcher is observed and the USFWS notified.

11. If a bald eagle is observed within 0.25-mile of the proposed project area in the morning when activity starts or arrives during breaks in activity, the contractor shall cease all activities until the bird leaves of its own volition or until the project biologist, in consultation with the USFWS determine the potential for harassment is minimal. However, if a bald eagle arrives during construction activities or is observed more than 0.25-mile from the construction site, activity need not be interrupted.
12. The permittee shall submit a draft mitigation and monitoring plan for restoration of disturbed construction, staging and access areas by January 31, 2006, that will meet the Albuquerque District's mitigation and monitoring guidelines.
13. The permittee shall meet the Conservation Measures and the Reasonable and Prudent Measures terms and conditions of the U.S. Fish and Wildlife Service's Biological Opinion dated November 22, 2005.
14. The New Mexico Interstate Stream Commission will submit an annual (monitoring) report of the restoration activities to the Corps of Engineers, with copies to the U.S. Fish and Wildlife Service and other members of the Middle Rio Grande Endangered Species Act Collaborative Program. The report will include, at a minimum, the type, location, and acreage of each mitigation activity performed, actual quantities and types of fill materials placed in the Rio Grande, as-built drawings (no larger than 11 x 17-inch format), the identification of which restoration activities worked and which did not, proposed changes in restoration techniques, if any, and any incidental take of the Rio Grande silvery minnow as part of the project. The report will include a citation of Section 404 permit number 2005 00470.

o. Public Notice No. 2005 00481 – Special conditions are as follows:

All areas disturbed by construction activities will be reseeded/vegetated with native species.

p. Public Notice No. 2005 00521 – Special conditions are as follows:

1. During construction, employ silt curtains, cofferdams, dikes, straw bales or other suitable erosion control measures to prevent sediment-laden runoff from entering the waterways.
2. Contain any poured concrete in forms and/or behind cofferdams to prevent discharge into waterways. Contain and treat ore remove for off-site disposal any wastewater from concrete batching, vehicle wash-down, and aggregate processing.
3. For gabion fill, wire-wrapped rock and/or riprap, use only clean cobble or quarry stone from an upland source.
4. Use existing maintenance yards to store and service construction equipment. Clean construction equipment prior to construction to ensure that no leaks or discharges of lubricants, hydraulic fluids or fuels occur in the aquatic or riparian ecosystem. Inspect construction equipment daily.
5. Store and dispense fuels, lubricants, hydraulic fluids and other petrochemicals outside the floodplain. Contain and remove any petrochemical spills, including contaminated soil, and dispose of these materials at an approved upland site.
6. Use uncontaminated earth or alluvium suitable for re-vegetation with indigenous plant species for backfill.
7. Where possible, use existing roads, clearings and rights-of-way for access to construction and borrow sites.
8. Submit a final Mitigation and Monitoring Plan for the Stormcloud Subdivision Project within 30 days of the permit issuance date for approval by the Corps. The final plan will update the draft plan entitled, "Compensatory Mitigation Plan for Stormcloud Subdivision Project, Bernalillo County, New Mexico," dated October 2005.
9. Construct off-site mitigation as described in an approved Stormcloud Subdivision Mitigation and Monitoring Plan to replace 0.89 acres of waters of the U.S. lost as a result of filling portions of Arroyo Nos. 1 and 2. Enlarge the pond bottom surfaces in Ladera Dam Nos. 9 and 10 in coordination with the Albuquerque Metropolitan Arroyo Flood Control Authority (AMAFCA). Specifically, enlarge Dam No. 9 pond bottom (existing size is 2 acres) by 0.88 acres, and

enlarge the Dam No. 10 bottom (existing is 2.96 acres) by 0.36 acres. The total enhancement area, supported by increased stormwater flows, is expected to be 1.5 acres.

10. Survey for resident burrowing owls prior to construction. Flush resident owls from their nests prior to destroying the nests. Construct one artificial burrowing owl nest structure for each known or potential nest structure lost during project construction. The artificial burrowing owl nest structures should be constructed in an area conducive to owl residency (i.e., away from direct human disturbance) and conserved without disturbance.
11. It is possible that presently unknown archeological, scientific, prehistoric, or historic data may be discovered during construction. In the event that cultural resources are found, stop work at the site and contact the Corps' archeologist and the New Mexico Historic Preservation Officer for advice on the appropriate action to be taken.

q. Public Notice No. 2005 00546 – Special conditions are as follows:

1. In-stream work is limited to April 1 through September 30 to protect brown trout spawning and egg incubation.
2. As-built drawings will be submitted to the Corps of Engineers within 45 days of completion of structures. The drawings will include, but are not limited to: V-dams, deflectors, random boulder placements, boulder bank lining, boulder terraces, and trail construction. All drawing(s) will include, but are not limited to: location of preserved trees and shrubs; location and count of new tree plantings; and location, square foot measures, and count of new shrub plantings or transplantings.
3. Grouting will be restricted to the low-flow section of the structures. Grout will rise to no more than 8 inches below the surface of the boulders. Boulders to be used in the structures may be temporarily stockpiled within the river to keep heavy flows out of the work area.

r. Public Notice No. 2005 00597 – Special conditions are as follows:

1. The permittee shall create a Western Burrowing Owl habitat area north of the culvert outlet and south of Corona Avenue. The habitat shall consist of an earthen berm 60' long by 15' wide by 6' high with 3:1 sideslopes. The owl habitat shall consist of 6 artificial burrows of 5' lengths of 8" diameter PVC pipes embedded into the berm. The pipes shall tilt slightly downward to prevent water accumulation but not so much as to prevent fledglings from easy access. The Permittee shall provide follow-up monitoring during the ensuing nesting and fledgling season to document use, survival and reproductive success.
2. The permittee shall comply with all terms and conditions as outlined in the December 1, 2005 Water Quality Certification issued by the New Mexico Environment Department.
3. The permittee shall comply with all requirements as outlined by the State Historic Preservation Office pertaining to any cultural resource sites located within the project boundaries.

3. Current Regulatory Program Information, including current public notices, is always available on our Regulatory home page at: http//www.spa.usace.army.mil/reg/ .

4. The record for each permit action may be seen at the Albuquerque District Office, 4101 Jefferson Plaza, NE, Room 302, Albuquerque, NM 87109-3435, or a copy may be obtained upon written request.

5. Any person having questions regarding this Public Notice or the Department of the Army permit program should contact Ms. Jean Manger at (505) 342-3216 for additional information.

Todd Wang
Lieutenant Colonel, U.S. Army
District Engineer